Corp. (3d ed.), secs. 250–254; *State* v. *St. Louis* (Mo. Sup.), 1 S. W. 757. See also *Ham* v. *Boston Board of Police*, 142 Mass. 90.

The opinion in the principal case states that while the court has decided many cases on the subject of official tenures, the precise question presented in this case has not been before passed upon by it. In *State* v. *Police Commissioners* (Mo.), 71 S. W. 215, the principle above enunciated was recognized, but relief was refused because, by another provision of the statute defining the tenure of office, it was enacted that the appointment for three years was "subject to that term being reduced, . . . without notice, charges or trial, in the event that the exigencies of any extraordinary emergencies made it necessary, in the judgment of the board."

In *Smith* v. *Bryan* (Va.), 40 S. E. 652, it was held that a police officer is an official of the State and not of the city, and therefore not within the constitutional provision relating to the removal of city officers. But the court further held that under the charter of the city of Roanoke, providing that policemen "shall hold their respective positions during good behavior or until they may be severally removed by the mayor, or by three-fifths vote of the council, after notice to and failure of the mayor to act," the mayor, or city council in case of his failure to act on request, have an absolute power of removal, and are not limited to removals for cause.

ASSIGNMENT FOR CREDITORS—ATTORNEY'S FEES—AMOUNT.—The question of the allowance of counsel fees out of a fund under the control of a court is one of ever recurring interest to lawyers and judges. In *National Bank* v. *Dulaney*, 53 Atl. 944, the Court of Appeals of Maryland emphasizes the wisdom of petitioning counsel being full handed with evidence as to the value of their services, a warning being implied against leaving the entire matter to the court. It says generally (p. 948): "There can be no doubt of the right of trustees to have the aid of counsel where the interests of the estate in their hands and the nature of their duties are such as to make necessary or proper a resort to legal advice and assistance; nor of their right to employ, under the sanction of the court supervising the trust, agents in the prosecution of the business in hand, where peculiar conditions make this beneficial to the trust, and to have compensation allowed for these purposes from the trust funds. In the case at bar the propriety of the employment by the trustees of the services of gentlemen of the bar, which appears from the proceedings recited, is not made a question; and the controversy is restricted to the reasonableness *vel non* of the compensation allowed for such services, and of the commissions allowed to the trustees for their own services. In deciding such a question, little or no assistance can be had from reference to adjudicated cases. To determine the value of services rendered in any given case, reference must be had to the circumstances and conditions of that case, and no case is likely to be without its own special and peculiar features. It may be said, also, that such a question is not to be decided simply according to the arbitrary individual opinions of those constituting the trying tribunal. The judicial mind must have respect to the evidence offered for its instruction and guidance."

It then proceeds to the consideration of the fees claimed, and approves as fair the allowance of $11,250 to one of the counsel for the trustees, the late Charles Marshall, of the Baltimore bar. And it is of interest to note that one of the admitted elements in its estimate is the position at the bar occupied by counsel.

The court says: "In attempting to assign a value to such services, regard is to be had to the eminent and commanding position of Col. Marshall at the bar of the State, and, as suggested in the brief of counsel, his high character and professional standing give weight to his own estimate of an appropriate value."

LANDLORD AND TENANT—REPAIRS—FAILURE TO MAKE—NOTICE.—The question of the liability of a landlord for damages occasioned a tenant by the failure of the former to make necessary repairs in the demised premises, and frequently discussed in these pages, has recently been under consideration by the Court of Appeals of Maryland. That the effect of its ruling can only be to narrow materially the doctrine in that State, reducing the possibilities of a recovery to the compass indicated by the court, cannot be doubted. In *Smith* v. *State*, 92 Md. 518, 51 L. R. A. 772, the same court had held that the landlord is not liable to the tenant or subtenant for personal injuries due to the want of repairs. In the principal case, it was called upon to decide whether the liability existed after express agreement by the landlord to make the repairs. Its conclusions may be respectfully pronounced an unskillful straddle of the question, announcing a principle that is at most only a principle—a right without a remedy. The ruling is briefly that although the landlord has agreed to repair, an action *ex delicto* cannot be maintained in the absence of notice of the need of repairs—and this, though he had gone with the tenant upon the premises and agreed to make certain specified "and any necessary repairs." *Thompson* v. *Clemens*, 53 Atl. 919.

The first point in the syllabus does not seem to state the conclusion of the court. It is as follows:

"Where a landlord agreed to make repairs there is a duty resting on him to do so, and on his failure the tenant may either sue on his contract, or bring an action *ex delicto* for neglect of such duty."

But the court says (p. 921):

"We have no doubt that no action, either in contract or in tort, by a tenant or one of his family, against a landlord, to recover damages for personal injuries, should be sustained merely because the latter has been guilty of a breach of contract to make necessary repairs in the premises demised."

The opinion of the court seems confused, containing broad statements indicative of a tendency to reach a conclusion directly opposed to that announced in its judgment. Thus it says:

"If the appellee (the landlord) knew of the defect in this porch that caused the injuries, and had reason to believe that it was likely to produce such results if not repaired, then it was negligence on his part, in view of his agreement to repair, not to do so promptly, or at least to take some steps to protect the tenant and his family from injury."

It expressly excludes from consideration the question of plaintiff's contributory negligence, and then proceeds:

"If the use of that part of the porch was dangerous, the plaintiff knew it, and if she had been injured in the use of that, would clearly have been guilty of contributory negligence."

It is then held that the allegation of the declaration of lack of knowledge by plaintiff and notifying the defendant are inconsistent, thus in effect ruling that notice is necessary, but, as it implies knowledge, is fatal to plaintiff's case.